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A N
E P I T O M E
OF THE
CONSTITUTIONAL PART
OF THE
LAWS OF ENGLAND:

CONTAINING

The Substance of all the Laws now in force, relative to, or concerning the Liberty of the Subject ; || Parliament ; and Qualifications and Disabilities of the Members ;
The Freedom of Election, and Electors ; || The Prerogatives of the Crown ;
The Power and Privileges of || The Royal Revenue ;
The Rights of Peerage ; and The Privilege of Embassadors.

CAREFULLY COMPILED FROM

T H E S T A T U T E S,

AND THE OPINIONS OF

THE BEST LAW AUTHORITIES ON THE SUBJECT,

From the earliest Period to the present Time ;

D I V E S T E D O F A L L

PEDANTRY, TAUTOLOGY, AND AMBIGUITY.

By J. PEISLEY,

CITIZEN AND SCRIVENER.

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1789.

AC 911. 1789. P 45

To the Right Honourable
THE LORD MAYOR,
COURT OF ALDERMEN,
AND
COMMON COUNCIL
OF THE CITY OF LONDON,
THE FOLLOWING
E P I T O M E
OF THE CONSTITUTIONAL PART OF
THE LAWS OF ENGLAND,

Is most respectfully inscribed by
Their most obedient Servant,

J. PIESLEY.

P R E F A C E.

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TO the complex state of the laws must be attributed the almost total ignorance that the generality of mankind are in, with regard to that most essential and necessary piece of knowledge, an acquaintance with the constitutional part of the laws of their country, and in which the interest and happiness of most are often involved; and from which, in a great measure, arise such a number of suits, continually depending in the several Courts of Justice. Many very good abridgements of the laws have been made,

P R E F A C E.

made, and many very good lawyers have commented on them; but the compiler of the following sheets, finds them only calculated for the students in the profession, and such as are possessed of a fortune, and education, to enable them to purchase, and read, the various and numerous learned writers on the Laws and Constitution; and not to convey that information respecting them, so very necessary for even the lowest peasant to be in possession of; for to the want of the industrious part of mankind knowing the laws of their country, is, in a great measure, to be attributed the too frequent breach of them, and which the following pages, being a plain and easy Epitome, compiled from the Statutes, and the Opinions of the best Law Authorities of the Constitutional Part of the Laws,
as

P R E F A C E.

as they now stand, the Compiler
trusts, will, in a great measure, pre-
vent, and be useful to every true
friend to the Liberties of England.

THE

T H E

LIBERTY OF THE SUBJECT.

THE Rights of life, and member, are only determinable by the death of the person, which may be either natural or civil. A civil death is where a man is banished the Realm, by the process of the common Law ; or enters into a monastery and becomes a monk professed ; in either of which cases, he is absolutely dead in Law, and his next heir shall have his estate.

Blac. Com.

No man can be fore-judged of life, or limb 5 Edw. III.
contrary to the great Charter and the Law of the
Land.

c. 9.

No man can be put to death, without being 28 Edw. II.
brought to answer, by due process of Law.

c. 3.

No freeman can be taken or imprisoned, but by the lawful judgment of his equals, or by the Law of the Land.

Great
Charter

5 Edw. III. No man can be taken or imprisoned, by suggestion or petition to the King, or his Council,
 c. 9.
 25 Edw. III. unless by legal indictment or the process of the
 S. 5. c. 4.
 28 Edw. III. common Law.
 c. 3.

Pet. of Right. No freeman can be imprisoned or detained,
 5 Car. I.
 without cause shewn, to which he may make answer according to Law.

16 Car. I.c. 10: If any person be restrained of his liberty, by order or decree of any illegal Court, or by command of the King's Majesty in person, or by warrant of the Council Board, or any of the Privy Council; he may upon demand of his Counsel, have a writ of Habeas Corpus, to bring his body before the Court of King's Bench, or Common Pleas, who shall determine whether the cause of his commitment is just, and thereupon do as justice shall appertain.

Blac. Com. The confinement of the person, in any wise, is an imprisonment; the keeping a man against his will in a private house, putting him in the stocks, arresting, or forcibly detaining him in the streets, is an imprisonment; and if a man is under duress of imprisonment, by an illegal restraint of liberty, until he seals a bond or any other instrument, such Act is void in Law.

Hale: To make imprisonment lawful, it must either be by process from the Courts of Judicature, or by

by warrant from some legal officer, having authority to commit to prison; which warrant must be in writing under the hand and seal of the Magistrates, and express the causes of the commitment in order to be examined into (if necessary) upon a Habeas Corpus. If there is no cause expressed, the goaler is not bound to detain the prisoner; and if he does, after notice given him of the illegality of the commitment, an action will lay against him.

Every man may claim a right to abide in his own country, and not be sent out of it, unless by the sentence of the Law, or the authority of Parliament.

No man can be banished, but by the judgment of his Peers, or by the Law of the Land.

No Subject of the Realm, who is an inhabitant of England, Wales, or Berwick, can be sent prisoner into Scotland, Ireland, Guernsey, Jersey, or places beyond the Seas (where they cannot have the benefit and protection of the Common Law) for all such imprisonments are illegal; and the person who shall dare to commit another contrary to this Law, shall be disabled from holding any office, shall incur the penalty of Praemunire, and be incapable of receiving King's pardon; and the party suffering

fering shall have his private action against the person committing, and all his aiders, advisers, and abettors, and recover treble costs, besides his damages, which no Jury must assess at less than 500l.

'Great
Charter.'

No freeman can be disfeized or divested of his freehold, or of his liberties or free customs, but by the judgment of his Peers, or the Law of the Land : And no man's lands or goods can be seized into the King's hand against the Great Charter, and the Law of the Land : And no man can be disinherited, or put out of his franchises or freehold, unless he is duly brought to answer and be forejudged by course of Law ; and if any thing be done to the contrary, it must be redressed.

Blac. Com.

No Subject of England can be constrained to pay any aids or taxes, even for the defence of the Realm, or the support of Government, but such as are imposed by his representatives in Parliament.

²⁵ Edw. I.
c. 5 &c. 6.
³⁴ Edw. I.
St. 4. c. 1.

And the King cannot take any aids or tasks, but by the common assent of the Realm ; which common assent is specified to be the assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other freemen of the Land.

The Prelates, Earls, Barons, and Commons, <sup>24 Edw. III.
St. 2. c. 1.</sup>
Citizens, Burgeesses, and Merchants, shall not be charged to make any aid, if it be not by the common assent of the great Men and Commons in Parliament.

No man shall be compelled to yeild any gift, <sup>Pa. of Right,
3 Car. I.</sup>
loan, or benevolence, tax, or such like charge, without common consent by Act of Parliament.

Levyng money for, or to the use of the Crown, <sup>1 W. & M.
St. 2. c. 2.</sup>
by pretence of prerogative, without grant of Parliament ; or for longer time, or in any other manner than the same is or shall be granted ; is illegal.

No freeman shall be outlawed, that is, put out of the protection of the Law, but according to the Law of the Land. <sup>Magna Char.
c. 29.</sup>

No commands or letters shall be sent under the Great Seal, or the Little Seal, the Signet or Privy Seal, in disturbance of the Law ; or to disturb or delay common Right : And though such commandments should come, the Judges shall not cease to do right ; which is a part of their Oath. <sup>2 Edw. III.
c. 8 & 2.
Rich. II. c. 10</sup>

28 Edw. III.

St. 4.

2 W. & M.

St. 2. c. 2.

The pretended power of suspending or dispensing with Laws, or the execution of Laws, by regal authority, without consent of Parliament, is illegal.

16 Car. II.

c. 10.

Neither his Majesty or his privy Council, have any jurisdiction, power, or authority, by English Bill, Petition, Articles, Libel, or any other arbitrary way whatsoever, to examine, or draw into question, determine, or dispose of the Lands, or Goods of any Subject of this Kingdom ; but the same ought to be tried and determined in the ordinary Courts of Justice, and by course of Law.

13 Car. II.

St. 1. c. 5.

No petition to the King or either House of Parliament, for any alteration in Church or State, must be signed by above twenty persons, unless the matter thereof is approved by three Justices of the Peace, or the major part of the Grand Jury in the Country ; and in London by the Lord Mayor, Aldermen, and Common Council ; nor must any petition be presented by more than ten persons at a time.

2 W. & M.

St. 2. c. 2.

Under the above regulations, the Subject hath a right to petition ; and all commitments and prosecutions for such petitioning, are illegal : By the same Statute, the Subject has a right to have

have Arms for their defence, suitable to their condition and degree, as allowed by Law.

No Soldier can be quartered on the Subject without his own consent; and no commission can issue to proceed within this Land, according to Martial Law.

Blac. Com.

If any Subjects of the Realm, are oppressed in time of truce by any Foreigners, the King will grant mark in due form, to all that feels themselves grieved.

4 Hen. V.

c. 7.

The Privy Council have power to inquire into all offences against the Government, and to commit the offenders to safe custody, in order to take their trial in some of the Courts of Law. But their jurisdiction is only to inquire, and not to punish; and the persons committed by them, are entitled to their Habeas Corpus, as much as if committed by an ordinary Justice of the Peace.

Blac. Com.

The dispensing with Laws, by Regal authority, without consent of Parliament, is illegal.

I. W. & M.
St. 2. c. 2

A man may go out of the Realm, for whatever cause he pleases, without obtaining the King's leave, provided he is under no injunction of staying at home.

Great Charter.

THE
FREEDOM OF ELECTION
AND
ELECTORS.

Blac. Com. AS soon as the time and place of Elections, either in counties or boroughs, are fixed, all Soldiers quartered in the place, are to remove at least one Day before the Election, to the distance of two miles or more; and not to return till one Day after the poll is ended.

Blac. Com. No Lord of Parliament, or Lord Lieutenant of a county, hath any right to interfere in the Election of Commoners.

Blac. Com. And the Lord Warden of the Cinque Ports, shall not recommend any Member there.

If

If any officer of Excise, Customs, Stamps, or certain other branches of the Revenue, presumes to intermeddle in Elections, by persuading any voter, or dissuading him, he forfeits 100l. and is disabled to hold any office;

Blac. Com.

And if any money, gift; office, employment, or reward is given, or promised to be given to any voter, at any time, in order to influence him to give or withhold his vote; as well he that takes as he that offers such bribe; forfeits 500l. and is for ever disabled from voting, and holding any office; in any corporation; unless, before conviction, he will discover some other offender of the same kind, and then he is indemnified for his own offence.

Blac. Com.

The Sheriff, or other returning officer, must take an oath against bribery, and for the due execution of his office. And the candidates if required, must swear to their qualifications; and the Electors in counties to theirs; and the Electors both in counties and boroughs, are compellable to take the oath of abjuration, and that against bribery and corruption.

Blac. Com.

The Sheriff must make his return to the Clerk of the Crown in Chancery, before the day of meeting, if it be a new Parliament, or within fourteen days after the Election, if it be an occa-

Blac. Com.

fional vacancy, under the penalty of 500l. And if he does not return such Knights only, as are duly elected, he forfeits 100l. And the returning officer in boroughs, for a like false return, 40l. and they are besides liable to an action, in which double damages shall be recovered ; and any person bribing the returning officer, shall forfeit 300l. but the members returned by such returning officer, are the sitting members, until the House of Commons, upon petition, shall adjudge the return to be false and illegal.

7 & 8 W. III.
c. 25.
10 Ann c. 23
2 Geo II.
c. 21.
13 Geo. II.
c. 18.
31 Geo. II.
c. 14. and
2 Geo. III.
c. 24.

No person under twenty-one years of age, is capable of voting for any member, either for borough or county ; and no person convicted of perjury, or subornation of perjury, can vote at any Election ; and no person can vote in right of any freehold granted to him fraudulently to qualify him to vote. And fraudulent grants are such, as contain an agreement to reconvey or to defeat the estate granted, which agreements are made void, and the estate is absolutely vested in the person to whom it is so granted : and it is further provided, that every voter shall have been in the actual possession, or receipt of the profits of his freehold, to his own use, for twelve calendar months before ; except it came to him by descent, marriage settlement, will, or promotion to a benefice or office : and no person can vote in respect of an annuity or rent charge,

unless registered with the Clerk of the Peace twelve calendar months before. And that in mortgaged or trust estates, the person in possession, under the before mentioned restrictions, shall have the vote. Only one person can be admitted to vote for any one house or tenement; and no estate can qualify a voter, unless the estate has been assessed to some Land-tax aid, at least twelve months before the Election. And no tenant by copy of court roll, shall be permitted to vote as a Freeholder.

The right of voting for the future, shall be allowed according to the last determination of the House of Commons concerning it.

2 Geo. II.
c. 24.

No freeman of any city or borough (other than such as claim by birth, marriage or servitude) shall be entitled to vote therein, unless he hath been admitted to his freedom, twelve calendar months before.

3 Geo. III.
c. 15.

The Knights of the Shire must be chosen of people, whereof every man has freehold to the value of forty Shillings a year, within the county; clear of all charges and deductions, except parliamentary and parochial taxes.

Hen. VI. St. 8.
c. 7.
St. 10. c. 2.
& 14 Geo. III.
c. 58.

No person can vote at county Elections, in England or Wales, who has not been assessed to

20 Geo. III.
c. 17.

the Land-tax for his qualification, six months previous to the time of Election; except his qualification has been assessed to the Land-tax, in the name of his predecessor, within two years before the Election.

22 Geo. III.
c. 41.

No Commissioner or Officer, employed in collecting or managing the duties of Excise, Customs, Stamp duties, or duties on Salt, Windows or Houses; or any Post-masters General, or any person employed by him or them, in receiving, collecting, or managing the revenue of the Post-Office, or any part thereof; nor any Captain, Master, or Mate of any Ship, Packet, or other Vessel, employed by or under the Post-master, or Post-masters General, in conveying the Mail to and from foreign Ports, shall have any vote in the Election of Members of Parliament; and if any person gives his vote during the time he shall hold, or within twelve calendar months after he shall cease to hold, or execute any of the offices aforesaid, such votes shall be null and void; and every person so offending, shall forfeit One Hundred Pounds.

24 Geo. III.
c. 84.

Every poll, must commence, at the latest, the day after it is demanded, unless it be Sunday, and must not continue more than fifteen days (Sundays excepted) and the returning officer, must

must immediately, or on the day next after the final close of the Poll, declare the name or names of the person or persons who have the majority of votes, on such poll ; unless a scrutiny is demanded, by any candidate, or any two or more electors, in which case he is to proceed thereupon, but so as in all cases, of a general Election ; he must cause a return, of a member or members, to be filed in the Crown-Office, on or before the day, on which the Writ is returnable.

And every returning officer, acting under a precept, or mandate, must make a return of a member or members, at least six days before the day of the return of the Writ.

And in case of any Election, upon a writ issued during a session, or prorogation of Parliament, and a scrutiny being granted, then a return of a member or members, must be made within thirty days after the close of the poll.

And if upon a scrutiny, there are more parties than one, objecting to votes, the returning officer must decide by turns, on the votes given for the different candidates.

And every returning officer must, during the continuance of a poll, cause it to be kept open for

for seven hours in each day, between the hours of eight in the morning, and eight at night.

And the Sheriff of every county must, within two days after the receipt of the Writ for making an Election, cause proclamation to be made, at the place where the Election ought to be held, of a special county court, to be there holden for the purpose of such Election only, on any day, not later, from the day of making such proclamation, than the sixteenth day, nor sooner than the tenth day.

And he must proceed in such Election, at such special county court, in the same manner as if the said Election was to be held at a county court, or at an adjourned county court; according to the laws now in being.

And upon every Election of a member or members, to serve in Parliament for any county, city, borough or place, the returning officer during a scrutiny, may administer an oath to any person, touching any thing necessary, towards carrying on such scrutiny.

And at every Election of a member or members of Parliament, for city, borough, or place, every person whom the returning officer shall retain to act as a clerk, in taking the poll, must,

must, previous thereto, be sworn by such returning officer, truly and indifferently, to take the said poll, and set down the name of each voter, and his addition, profession or trade, and place of his abode, and for whom he shall poll ; and to poll no person, who is not sworn, or put to his affirmation.

THE .

T H E
POWERS AND PRIVILEGES
OF
PARLIAMENT,
AND
QUALIFICATIONS AND DISABILITIES
OF THE
MEMBERS.

Blac. Com. **T**HE Parliament is regularly to be summoned by the King's writ or letter, issued out of Chancery by advice of the Privy Council, at least forty days before it begins to sit.

Blac. Com. It is a branch of the Royal prerogative that no Parliament can be convened by its own authority, or the authority of any except the King, who is obliged to do it once every year, or oftener if need be.

On

On the demise of a King or Queen if there is then no Parliament in being, the last Parliament revives, and is to sit again for six months, unless dissolved by the successor.

Blac. Com.

The sitting and holding of Parliaments, shall ^{16 Car. II. c. 1.} not be intermitted above three years at the most.

It is declared to be one of the rights of the people, that for redress of all grievances; and for the amending, strengthening, and preserving the Laws, Parliaments ought to be held frequently.

1. W. & M.
St. 2. c. 2.

A new Parliament must be called within three ^{6 W. & M. c. 2.} years after the determination of the former.

If any person shall maliciously, or advisedly affirm, that both or either of the houses of Parliament, have any legislative authority, without the King, such person shall incur all the penalties of a *premunire*.

13 Car. II. c. 1.

No one can sit or vote in either house, unless <sup>W. III. St. 7.
3. c. 25.</sup> he be twenty-one years of age.

No member is to be permitted to enter the House of Commons till he has taken the oath of allegiance, before the Lord Steward or his deputy.

Jac. I. St. 7.
c. 6.

³⁶ Car. II. St. 2.
and ¹ Geo. I.
^{c. 13.} No member can vote in either house, till he has in the presence of the house, taken the oaths of allegiance, supremacy and abjuration; and subscribed and repeated the declaration against transubstantiation and invocation of saints, and the sacrifice of the mass.

^{W. III. St. 12}
^{& 13. c. 2.} No alien, even though he be naturalized, is capable of being a member of either House of Parliament.

Blac. Com. By the custom and Law of Parliament, if any person is made a Peer by the King, or elected to serve in the House of Commons by the people, yet the respective Houses, upon complaint of any crime, and proof thereof in such person, may adjudge him disabled, and incapable to sit as a member.

Blac. Com. And whatever matter arises concerning either House of Parliament, must be examined, discussed, and adjudged in that house to which it relates.

Blac. Com. The Commons cannot interfere in settling the election of a Peer of Scotland; nor can the Lords judge of the election of a Burges, or will either house permit the subordinate courts of Law to examine the merits of either case.

It is declared as one of the liberties of the people, that the freedom of speech and debate, or any proceedings in Parliament, cannot be impeached or questioned in any court or place out of Parliament.

To assault by violence, a member of either House, or his menial servants, is a high contempt of Parliament, and there punishable.

By the privilege of Parliament, a member of the House of Commons cannot be arrested, or taken into custody, for forty days after every prorogation, and forty days before the next appointed meeting.

Any trader having privilege of Parliament, may be served with legal process for any just debt (to the amount of One hundred pounds) and unless he make satisfaction within two months, it shall be deemed an act of bankruptcy; and commissions of bankrupt may be issued against such privileged traders, in like manner as against any other.

Any suit may at any time be brought against any Peer, or Member of Parliament, their servants, or any other person entitled to privilege of Parliament, which shall not be impeached or delayed by pretence of any such privilege; ex-

cept that the person or a member of the House of Commons, shall not thereby be subject to any arrest or imprisonment.

Char. of the Forest.

Every Lord, spiritual or temporal; summoned to Parliament, and passing through the King's forests, may both in going and returning, kill one or two deer without warrants, in view of the forester, if he is present, or on blowing a horn, if he is absent,

Blac. Com.

Every Peer by license from the King, may make another Lord of Parliament his proxy, to vote for him in his absence.

Blac. Com.

Each Peer has a right, when a vote passes contrary to his sentiments, to enter his dissent on the journals of the house,

Blac. Com:

All bills that may any way affect the rights of Peerage, are by the custom of parliament, to have their first rise in the House of Peers, and to suffer no changes or amendments in the House of Commons,

6 Ann; c. 23.

Regulates the sixteen representative Peers of North Britain, in consequence of the twenty-second and twenty-third articles of the Union: And for that purpose prescribes the oaths, &c. to be taken by the Electors, directs the mode of balloting

Baloting, and prohibits the Peers electing, from being attended in an unusual manner; and expressly provides that no other matter shall be treated of in that assembly, save only the Election, on pain of incurring a *præmunire*.

It is the ancient indisputable privilege and right of the House of Commons, that all grants of subsidies or parliamentary aids, do begin in their House, and are first bestowed by them.

The House of Peers have no power to make the least alteration, in a money bill, but they may reject it.

No persons concerned in the management of any duties or taxes created since 1692, except the Commissioners of the Treasury, or any of the officers following, viz. Commissioners of Prizes, Transports, sick and wounded, Wine Licences, Navy and Victualling ; Secretaries or Receivers of Prizes ; Comptrollers of the Army Accounts ; Agents for Regiments, Governors of Plantations, and their Deputies ; Officers of Minorca or Gibraltar ; Officers of the Excise and Customs ; Clerks or deputies in the several Offices of the Treasury, Exchequer, Navy, Victualling, Admiralty, Pay of the Army, or Navy ; Secretaries of State, Salt, Stamps, Appeals, Wine Licences, Hackney Coaches, Hawkers and

Blac. Com.

Blac. Com.

5 & 6 W. &
M. c. 7.
11 & 12 W. III.
c. 2.
12 & 13 W. III.
c. 10.
6 Ann. c. 7.
15 Geo. II c. 22.

and Pedlars, or any persons that hold any New Office under the Crown, created since 1705, are capable of being elected, or sitting as Members of the House of Commons.

Blac. Com. No alien born, or minor, or any of the twelve Judges, or the Clergy, or persons attainted of treason or felony, can be elected, or sit as members of the House of Commons.

Blac. Com: The Sheriffs of Counties, and Mayors and Bailiffs of Boroughs, are not eligible in their respective jurisdictions, as being returning officers; but Sheriffs of one county are eligible to be Knights of another.

**6 Ann. c. 7.
1 Geo. I. c. 56.** No person having a pension under the Crown during pleasure, or for any term of years, is capable of being elected or sitting.

6 Ann. c. 7: If any member accepts an office under the Crown, (except an officer in the army or navy, accepting a new commission) his seat is void; but such member is capable of being re-elected.

**23 Hen. VI.
c. 15.** All Knights of the Shire shall be actual Knights, or such notable Esquires and Gentlemen, as have Estates sufficient to be Knights, and by no means the degree of Yeomen.

Every Knight of a Shire, shall have a clear estate of freehold or copyhold, to the value of Six hundred pounds per annum; and every citizen and burgess to the value of Three hundred pounds; except the eldest sons of Peers, persons qualified to be Knights of Shires, and members of the two Universities.

Every member must make oath of his qualification, and give in the particulars in writing at the time of taking his seat.

No candidate shall, after the date of the writs, or after the vacancy, give any money or entertainment to his electors, or promise to give any, either to particular persons, or to the place in general, in order to his being elected, on pain of being incapable to serve for that place in Parliament.

A select committee of fifteen members, are to be chosen by lot, who are to be sworn well and truly to try petitions or elections, and a true judgment give according to the evidence.

The speaker of the House of Commons cannot give his opinion, or argue any question in the House of Commons; but a speaker of the House of Lords, if a Lord of Parliament, may.

Blac. Com. In each House, the act of the majority binds the whole, and the majority is declared by votes, openly and publicly given.

Blac. Com. To bring a bill into the House if the relief sought by it is of a private nature, it is first necessary to prefer a petition; which must be presented by a member, and usually sets forth the grievance desired to be remedied. This petition must be presented by a member, and usually sets forth the grievance desired to be remedied: this petition (when founded on facts that may be in their nature disputed) is referred to a Committee of members, who examine the matter alledged, and accordingly report it to the House, and then (or otherwise upon the mere petition) leave is given to bring in the Bill. In public matters, the Bill is brought in upon motion made to the House, without any petition.

Black. When an act of grace or pardon is passed, it is first signed by his Majesty, and then read once in each of the Houses.

Stoke Litt. When both Houses have done with any Bill, it is deposited in the House of Peers, to wait the Royal assent, except in the case of a Bill of supply, which after receiving the concurrence of the Lords, is sent back to the House of Commons.

The

The Royal assent may be given two ways : in person when the King goes to the House of Peers, or by letters patent under his great seal. And when the Bill has received the Royal assent in either way, it is an act of Parliament.

Blac. Com:

A dissolution of the Parliament, may be affected by the King's will, expressed either in person, or by representation.

Hale.

The Parliament in being, must continue six months after the death of any King or Queen, unless sooner prorogued, or dissolved by the successor.

7 & 8 W. III.
c. 15.
6 Ann. c. 7.

If the Parliament is at the time of the King's death, separated by adjournment or prorogation, it must, notwithstanding, assemble immediately ; and if no Parliament is then in being, the members of the last Parliament must assemble, and be again a Parliament.

The Parliament must expire at the end of every seventh year, if not sooner dissolved by the Royal prerogative.

1 Geo. I. St. 2
c. 33.

Persons holding contracts for the public service, are not to sit in the House of Commons, on pain of forfeiting 500l. for each day.

22 Geo. III.
c. 45.

THE
DUTIES AND PREROGATIVES
OF THE
C R O W N.

12 & 13 W. III.
c. 2.
W. & M.
St. 1. c. 6.

THE Laws of England are the birth-right of the people ; and all the Kings and Queens who shall ascend the throne, ought to administer the Government according to such laws ; and all their officers and ministers ought to serve them respectively according to the same ; and all the Laws and Statutes of the realm for securing the established religion, and the rights and liberties of the people ; and all other Laws and Statutes, now in force, are, by his Majesty, with the advice and consent of the Lords Spiritual and Temporal, and Commons, and by the authority of the same, ratified and confirmed accordingly.

1 W. & M.
St. 1. c. 6.

The Coronation Oath, which is to be administered to every King and Queen, who shall succeed to the Imperial Crown of these realms, by one of the Archbishops or Bishops, in the presence of all the people, is as follows :

The

The King solemnly promises and swears to govern the people according to the Statutes in Parliament agreed on, and the laws and customs of the same ; and that he will, to the utmost of his power, cause law and justice, in mercy, to be executed in all his judgments ; and maintain the laws of God, the true profession of the gospel, and the Protestant reformed religion established by law ; and preserve unto the Bishops and Clergy, and the Churches committed to their charge, all such rights and privileges, as by law do, or shall appertain to them, or any of them.

Every King, at his accession, must take and subscribe an oath, to preserve the Protestant religion, and Presbyterian church-government in Scotland ; and, at his coronation, he must take and subscribe a similar oath, to preserve the settlement of the Church of England, within England, Ireland, Wales, and Berwick, and the territories thereunto belonging. 5 Ann. c. 8.

The King is the sole and chief Magistrate of Blac. Com. the nation, all others acting by commission from, and in due subordination to him.

No costs can be recovered against the King ; Blac. Com the King can never be a joint tenant ; and his debt is preferred before a debt to any of his subjects ;

subjects; and no suit or action can be brought against the King, even in civil matters.

Baick. The King may reject what bills; may make what treaties; may coin what money; may create what Peers, or other nobility; and may pardon what offences he pleases.

Blac. Com. What is done by the royal authority, with regard to foreign powers, is the act of the whole nation.

Coke Litt. The King has the whole power of sending Embassadors to foreign States, and receiving Embassadors at home.

Puff. The King may make treaties, leagues, and alliances with foreign States and Princes, and has the sole power of making war or peace.

Hale. The King is not bound by any Act of Parliament, unless he is named therein by special and particular words; but he may take the benefit of any particular Act, though he is not especially named therein.

Blac. Com. The King is the Generalissimo, or the first in military command within the Kingdom, and therefore has the sole power of raising and regulating fleets and armies.

The

The sole supreme government and command of the Militia within all his Majesty's realms and dominions, and of all Forces by sea and land, and of all forts and places of strength, ever was, and is the undoubted right of his Majesty, and his Royal predecessors, Kings and Queens of England; and that both, or either Houses of Parliament, cannot, nor ought to pretend to the same.

The King has the prerogative of appointing ports and havens, or such places, only for persons and merchandize to pass into and out of the realm, as he in his wisdom sees proper, he being lord of the whole shore; and the erection of beacons, light-houses, and sea-marks, is a branch of the Royal prerogative.

The King can prohibit, by his Royal proclamation, the exportation of arms, or ammunition, under severe penalties; and confine his subjects to stay within the realm, or recal them when beyond the seas.

The King can send to any man, when abroad, and command his return; and if the subject disobeys, it is a high contempt of the King's prerogative, for which the offender's lands may be seized till he returns, and then he is liable to fine and imprisonment.

The

13 Car. II. c. 6.

Blac. Com

12 Car. II.

c. 4.

29 Geo. II.

c. 16.

Blac. Com

1 Geo. III.
c. 23.

The King has the sole right of erecting courts of judicature, and appointing the Judges, who are to enjoy their offices during their good behaviour, notwithstanding any demise of the Crown, and their full salaries are secured to them, during the continuance of their Commissions.

Puff.

The King may create what new offices he pleases, with this restriction, that he cannot annex fees to them, or new fees to old offices.

Blac. Com.

The King has the prerogative of conferring privileges upon private persons, such as place or precedence, to any of his subjects, or converting aliens, or persons born out of the King's dominions into denizens; and of erecting corporations; of establishing public markets and fairs, with the tolls thereunto belonging, and regulation of weights and measures.

Blac. Com.

The denomination or value for which the coin is to pass current, is in the breast of the King; and if any unusual pieces are coined, their value must be ascertained by proclamation, and the King may, by proclamation, legitimate foreign coin, and make it current; declaring at what value it shall be taken in payment, and may at any time cry down any coin of the kingdom, and make it no longer current.

The King is the only supreme head (on earth) of the Church of England, and shall have, annexed to the imperial Crown of this Realm, as well the title and stile thereof, as all jurisdictions, authorities, and commodities, to the said dignity of the supreme head of the Church, appertaining: From this prerogative arises the King's right of nomination to vacant Bishopricks, and other Ecclesiastical preferments; and an appeal lying ultimately to him in chancery, from the sentence of every Ecclesiastical Judge.

26 Hen. VIII.
c. 1.

No Subject can build a castle or house of strength, im battled, or other fortress, defensible, without the licence of the King.

Blac. Com.

The King by his prerogative, may erect new Courts of Justice, but they must proceed according to the old established forms of the common Law.

Blac. Com.

If at a time of actual rebellion, or imminent danger of invasion, the Parliament is separated by adjournment, or prorogation, the King is empowered to call them together by proclamation, with fourteen days notice of the time appointed for their re-assembling; and a dissolution of the Parliament may be effected by the King's will, expressed either in person or by representation.

Hale.

The

Blac. Com. The custody of the temporalities of Bishops, by which are meant all lay revenues, lands and tenements (in which is included his Barony) which belong to an Archbishop's or Bishop's fee, upon the vacancy of the Bishoprick, are the right of the King, as a consequence of his prerogative in Chyrch matters.

<sup>1 W. & M.
St. 1. c. 30.</sup>
<sup>& 5 W. & M.
c. 6.</sup> No mincs of copper, tin, iron, or lead, are to be looked upon as Royal mines, notwithstanding gold or silver may be extracted from them in any quantities; but the King or persons claiming Royal mines under his authority, may have the ore (except tin ore, in the counties of Devon and Cornwall) on paying for the same.

Blac. Com. Whale and Sturgeon, when thrown on shore, or caught near the coasts, are the property of the King.

<sup>1 Mary. St. 1.
c. 2.</sup> The supreme executive power, is vested in the King or Queen, for it matter's not to which sex the crown descends, the person entitled to it whether male or female, is invested with all the ensigns, rights, and prerogatives of Sovereign power.

Blac. Com. The crown is by common Law and constitutional custom, hereditary; but the right of inheritance may, from time to time, be changed or limited

limited by act of Parliament; under which limitations the crown still continues hereditary. And among the females, the crown descends by right of primogeniture to the eldest daughter only, and her issue.

The Law of the Crown of England is, that the children of the King, whether born in England or elsewhere, ought to bear the inheritance after the death of their ancestors.

Brac.

Every one who shall be reconciled to, or hold communion with the See of Rome, shall profess the Popish Religion, or shall marry a Papist, is excluded and rendered for ever incapable to inherit, possess, or enjoy the Crown; and that in such case the people are absolved from their allegiance, and the crown will descend to such persons, being protestants, as would have inherited the same, in case the person, so reconciled, holding communion, professing or marrying, were naturally dead.

1 W. & M.
St. 2. c. 2.

Whosoever shall come to the possession of the 12 & 13 W. III
Crown, must join in the communion of the
Church of England, as by Law established.

c. 2.

If any persons maliciously, advisedly, and di- 6 Ann. c. 7.
rectly, shall maintain, by writing or printing,
that the Kings of this Realm, with the authority

of Parliament, are not able to make Laws to bind the Crown, and the descent thereof, he shall be guilty of high treason; or if he maintains the same by only preaching, teaching, or advised speaking, he shall incur the penalties of a *præmunire*.

² Mary St. 5.
c. 1.

The Queen Regent has the same powers, prerogatives, rights, dignities, and duties as a King.

Blac. Com.

The Queen Consort is a public person, exempt and distinct from the King; has a right to purchase Lands, and to convey them, to make Leafes, to grant Copyholds, and do any other act of ownership, without the concurrence of her Lord; she is also capable of taking a grant from the King; she may sue, and be sued alone, without joining her husband; she may have a separate property in Goods, as well as Lands, and has a right to dispose of them by Will; she pays no toll, nor is she liable to any amercement in any Court.

⁵ Edw. III.

It is treason to compass, or imagine the death of our Lady, the King's companion, and to violate or defile the Queen consort, amounts to the same crime; as well in the person committing the fact, as in the Queen if consenting,

If

If the Queen is accused of any species of treason, she must (whether Consort or Dowager) be tried by the Peers of Parliament. Bac. Com.

The Husband of a Queen Regent is her Subject, and may be guilty of High Treason against her. Bac.

A Queen Dowager has a right to enjoy most of the privileges belonging to her as Queen Consort; but it is not High Treason to conspire her death, or to violate her chastity; yet no man can marry her without special Licence from the King, on pain of forfeiting his Lands and Goods; and she, though an alien born, shall be entitled to Dower after the King's demise; and if married again to a Subject, does not lose her regal dignity. Blac. Com.

The Heir Apparent to the Crown, is by inheritance Duke of Cornwall, and is usually created Prince of Wales, and Earl of Chester. Blac. Com.

No person, except the King's Children, shall presume to sit, or have place at the side of the Cloth of State, in the Parliament Chamber. 31 Hen. VIII.
c. 10.

The education of the King's Grand-children while minors, does of right belong to his Majesty, as King of the Realm, even during their

Blac. Com.

Father's life, and the care and approbation of their marriages when grown up : And the same care and approbation extends to the Presumptive Heir of the Crown.

12 Geo. III. c. 11. No descendant of the body of King George the Second, (other than the issue of Princesses, married into Foreign families) is capable of contracting Matrimony without the previous consent of the King, signified under the great Seal ; and any marriage contracted without such consent is void, provided such of the said descendants as are above the age of twenty-five, may, after twelve months notice given to the King's Privy Council, contract and solemnize marriage without the consent of the Crown ; unless both Houses of Parliament, shall, before the expiration of the said Year, expressly declare their disapprobation of such intended marriage. And all persons solemnizing, assisting, or being present at any such prohibited marriage, shall incur the penalties of the Statute of *premunire*.

Hale. The Peers of the Realm, are by their birth hereditary Counsellors of the Crown, and may be called together by the King, to impart their advice in all matters of importance, either in time of Parliament, or when there is no Parliament in being.

Blac. Com.

Privy Counsellors are made by the King's nomination; without either Patent or Grant, and on taking the necessary oaths, they become immediately Privy Counsellors, during the life of the King that chuses them, but subject to removal at his discretion. No person born out of the dominions of the Crown of England, unless born of English Parents, even though naturalized by Parliament, is capable of being of the Privy Council.

Blac. Com.

The King and Council take cognizance of Plantations, or Admiralty causes, which arise out of the Jurisdiction of this Kingdom, in matters of lunacy or idiocy. Whenever any question arises between two Provinces, as concerning the extent of their Charters, and the like, the King exercises original Jurisdiction therein, upon the principles of Fœdal Sovereignty: And when any person claims an Island or a Province, in the nature of a Fœdal principality, by grant from the King or his Ancestors, the determination belongs to his Majesty in Council; and from all the dominions of the Crown, excepting Great Britain and Ireland, an appellate Jurisdiction in the last resort is vested in the King and Council.

The

6 Ann. c. 7. The Privy Council may continue for six months after the demise of the Crown, unless sooner determined by the successor.

Blac. Com. The King by his Royal prerogative, may prohibit any of his Subjects from going into foreign parts without licence.

22 Geo. III.
c 82. The officers of third Secretary of State, or Secretary of State for the Colonies; the Board of Trade and Plantations; the Lords and Gentlemen of the Police in Scotland; the principal Officers of the great Wardrobe; the principal Officers of the Jewel Office; the Treasurer of the Chamber; the Cofferer of the Household; the Offices of the six Clerks of the Board of Green Cloth; the Office of Paymaster of the Pensions; the Office of Master of the Harriers; the Master of the Fox-hounds; and Master of the Stag-hounds are abolished: And secret service Money is not to exceed 10,000l. in one Year, within the kingdom: And Secretaries of State, or first Commissioners of the Admiralty, making payment of any foreign secret service Money, must be sworn as to the disposal of it: And any foreign Minister, Consul, or Commander of Land or Sea Forces, must account for all secret service Money, by him expended, within a Year after their arrival in Great-Britain; and if

if any salary, fee, or pension, or any part thereof shall remain in arrear two years, from want of cash belonging to the Civil List Revenue, the said arrear shall be wholly lapsed and extinguished, as if the same had not been payable. The Commissioners of the Treasury may allow to every person who holds his Office by Patent for life; or who has purchased his place, an annuity equal to the legal emoluments of his office, and to other persons in the subordinate offices, upon examination into their circumstances and behaviour, such annuities as they shall think equitable, until they shall be provided for in his Majesty's service.

THE
ROYAL REVENUE.

Blac. Com. LEASES of the rents and profits of the demesne Lands, belonging to the Crown, grounded for any longer timethan thirty-one years, or three lives, are void, except with regard to houses, which may be granted for fifty years ; and no reversionary Lease can be made, so as to exceed, together with the Estate in being, the same Term of three Lives or thirty-one years, where there is a subsisting Lease, of which there are twenty years still to come ; the King cannot grant a future interest to commence after the expiration of the former, for any longer time than eleven years : The tenant must also be made liable to be punished for committing waste, and the usual rent must be reserved, or, where there has usually been no rent, one third of the clear yearly value.

The

The annual sum of 7000*l.* and upwards, per annum, issuing out of the new Stamp Duties, or Wine Licences, is settled on the Crown. 30 Geo. II.
c. 19.

All fines imposed on offenders, forfeitors of recognizances, and amercements, levied on defaulters; fees for setting the Great Seal to Charters, original Writs, and other proceedings, and for permitting fines to be levied of Lands, to bar entails, or otherwise to insure their title, belong to the King. Blac. Com.

All grants of the above perquisites, are to endure for no longer time than the Prince's life who grants them. 1 Ann. St. 2.
c. 7.

Escheats of Lands, that happen upon the defect of Heirs to succeed to the inheritance, they in general revert to and vest in the King. Blac. Com.

His Majesty is empowered to settle on his six younger sons, Prince Frederick, Bishop of Osnaburgh, Prince William Henry, Prince Edward, Prince Ernest Augustus Frederick, and Prince Adolphus Frederick, and the survivors, or survivor of them, or to such other person, or persons, as his Majesty shall think fit to name in his Letters Patent, and his or their heirs, during

the lives of their Royal Highnesses, and the survivors or survivor of them, an annuity of 60,000l. per annum, to commence from the demise of his Majesty ; but no one of the Princes to have a greater annuity than 15,000l. a year : and on the Princess Charlotte Augusta Matilda, Princess Augusta Sophia, Princess Elizabeth, Princess Mary, and Princess Sophia, and the survivors and survivor of them, or to such other person or persons, as his Majesty shall think fit to name in his Letters Patent ; and his or their heirs, during the lives of their said Royal Highnesses, and the life of the survivor of them, an annuity of 30,000l. per annum, to commence from the demise of his Majesty : And an annuity of 8000l. per annum on Prince William Frederick, the son of his Royal Highness the Duke of Gloucester, during his life, to commence from the day of the decease of his Royal Highness the Duke of Gloucester : And an annuity of 4000l. per annum, on the Princess Sophia Matilda, daughter of his Royal Highness the Duke of Gloucester, during her life, to commence from the day of the decease of his Royal Highness the Duke of Gloucester ; all which annuities are to be paid out of the aggregate fund.

THE

RIGHTS OF PEERAGE.

A Peer created by writ, holds the dignity to him and his heirs, without any words to that purport being expressed in the writ ; but in Letters Patent, there must be words to direct the inheritance, or the dignity enures only to the grantee for life.

Blac. Com.

A Nobleman must be tried by his Peers ; but this does not extend to Bishops.

Magna Char.

c. 19.

The person of a Peer, (by the privilege of Peerage) is for ever sacred and inviolable.

Hale.

Peereffes, either in their own right, or by marriage, must be tried before the same Judge, as other Peers of the Realm.

20 Hen. VI.
c. 9.

If a woman, noble in her own right, marries a commoner, she still remains noble, and must

Blac. Com.

be tried by her Peers, and if she becomes noble by marriage, then by a second marriage with a commoner, she loses her dignity ; but if a Duchess Dowager marries a Baron, she continues a Duchess ; and a Peeres (either in her own right or by marriage) cannot be arrested in civil cases.

Blac. Com. A Peer sitting in judgment, gives not his verdict on oath, but upon his honour : He answers to Bills in Chancery upon his honour, but when he is examined as a witness, either in civil or criminal cases, he must be sworn.

Coke Litt: A Peer cannot lose his nobility, but by death or attainder ; or be degraded but by Act of Parliament,

*3¹ Hen. VIII.
c. 10:* The Lord President of the Council, has precedence next after the Lord Chancellor, and Lord Treasurer.

Blac. Com. It is the right of each particular Peer of the Realm, to demand an audience of the King, and lay before him with decency and respect, such matters as he shall judge of importance to the public weal.

THE
PRIVILEGE
OF
EMBASSADORS.

ALL process whereby the person of any Ambassador, or of his domestic or domestic servant, may be arrested, or his Goods distrained or seized, shall be utterly null and void ; and the persons prosecuting, soliciting, or executing such process, shall be deemed violators of the Law of nations, and disturbers of the public Peace, and shall suffer such penalties and corporal punishment, as the Lord Chancellor and the two Chief Justices, or any two of them shall think fit. But it is expressly provided, that no trader within the description of the Bankrupt Laws, who shall be in the service of any Ambassador,

7 Ann c. 122

dor, shall be privileged or protected, nor shall any one be punished for arresting an Ambassador's servant, unless his name is registered with the Secretary of State, and by him transmitted to the Sheriffs of London and Middlesex.

F I N I S,

